**IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL**

Chapter VIII, Rule 32(2) (b)
Description of Case

**Appeal from Order No. 454 of 2006**

Date of decision : 4th August, 2006

A.F.R. (Approved for Reporting)

~~Not Approved for Reporting~~

Date :- 4.8.2006 Initials of Judge

**Note:-** Bench Reader will attach this at the top of the first page of the judgment when it is put up before the Judge for signature.

**IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL**

**Appeal from Order No. 454 of 2006**

Sri Hari Mohan Pandey,
S/o B.K. Pandey,
R/o GIC Road, Pande Gouan,
Pithoragarh. …… Appellant

**Versus**

1. Santosh Singh,
   Owner of Vehicle No. DL-3 CP-5870,
   R/o K-12 Green Park Extension,
   New Delhi.
2. United India Insurance Co.,
   through its Branch Manager,
   Rampur (U.P.). …… Respondents

Mr. I.D. Paliwal, Advocate for the appellant.

**JUDGMENT**

**Coram: Hon'ble Rajeev Gupta, C.J.**
**Hon'ble J.C.S. Rawat, J.**

**RAJEEV GUPTAL, C.J. (Oral )**

Mr. I.D. Paliwal, the learned counsel for the appellant is heard on admission.

2. This is claimant's appeal for enhancement of the compensation awarded by Motor Accident Claims Tribunal / District Judge, Pithoragarh vide Award dated 05.05.2006 passed in Motor Accident Claim Case No. 92 of 2002.

3. Appellant / claimant Hari Mohan Pandey claimed compensation of Rs. 5,25,000/- for the injuries suffered by him in the motor accident on 25.09.2001 when he was hit by the offending vehicle Car bearing registration No. DL-3 CP-5870 resulting in multiple serious injuries to the claimant. It was further pleaded that, on account of the injuries sustained by the claimant, he remained admitted in the hospital for a period of about six months.

4 The owner and the insurer of the offending vehicle Car contested the claim. The owner of the offending vehicle took the plea that the claimant, himself, was responsible for the accident, whereas the insurer denied its liability to pay compensation to the claimant on the plea that the vehicle was being driven in breach of the policy conditions and the driver of the Car was not holding a valid driving license.

5. The Tribunal, on the evidence led by the parties, held that claimant Hari Mohan Pandey sustained injuries in the accident, which took place on 25.09.2001; the accident occurred due to rash and negligent driving of the driver of the offending vehicle Car and the insurer of the Car was liable to pay compensation to the claimant.

6. Considering the nature of the injuries and the fact that the claimant suffered permanent disability to the extent of 40%, the Tribunal awarded a sum of Rs. 50,000/- towards Permanent Disability and a further sum of Rs. 92,752/- towards Medical Expenses & other incidental expenses and a sum of Rs. 5,000/- towards Pain & Agony, Thus, a total sum of Rs. 1,47,750/- was awarded as compensation to the claimant with interest at the rate of 9% per annum from the date of the Award.

7. Mr. I.D. Paliwal, learned counsel for the appellant vehemently argued that the compensation of Rs. 1,47,750/- awarded by the Tribunal is too low in comparison to the serious nature of the injuries suffered by the appellant and the expenses incurred by him in his treatment.

8. From the impugned Award, we gather that the Tribunal has taken into consideration the entire evidence on record while assessing the compensation in the case. Even the documents filed by the claimant before the Tribunal could establish the permanent disability

suffered by the appellant in his right leg to the extent of 40% only. It is also not in dispute that the claimant still continues to get the same salary as a Government Teacher, which he was getting before the accident. Thus, there has not been any loss of income to the claimant on account of the injuries suffered by him in the accident. The amount of Rs. 50,000/- awarded by the Tribunal towards Permanent Disability to the extent of 40%, found to have been suffered by the claimant on account of the injuries sustained by him in the accident. Cannot be termed as 'inadequate' so as to warrant enhancement in this appeal. The medical expenses incurred by the claimant in his treatment and certified by the doctors have been granted by the Tribunal. The Tribunal has been quite liberal in granting compensation under all the permissible heads.

9. Thus, we do not find any scope for enhancement of the compensation awarded by the Tribunal.

10. The appeal filed by the claimant under Section 173 of the Motor Vehicles Act for enhancement of the compensation, therefore, fails and is, hereby, dismissed summarily. No order as to costs.

**(J.C.S. Rawat, J.)** **(Rajeev Gupta, C.J.)**
04.08.2006 04.08.2006

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